

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

56 Old Suncook Road
Concord, NH 03301-7317

**Paula T. Rogers
Insurance Commissioner**

BULLETIN

Docket No. INS No. 99-014-AB

TO: All Insurers Licensed to Sell Automobile Insurance

FROM: Paula T. Rogers, Esq., Commissioner

DATE: September 20, 1999

**RE: DEPARTMENT ORDER Regarding
Use of "After-Market Parts" ? Coercion or Steering ? Claim Settlement**

History: The New Hampshire Insurance Department issued Bulletin Ins No. 98-010-AB on May 5, 1998 entitled "Existing Statutes and Regulations Regarding After-Market Parts (Non-OEM) and Coercion or Steering". The purpose of the Bulletin was to remind all licensed automobile insurance writers of their obligations under current law and regulation.

Since that time, the Department has monitored insurer practices and procedures for compliance and found that significant abuses continue to exist and that there is no consistency among insurers in the application of existing law or regulation with regard to "after-market parts", "coercion or steering" and "claim settlement". For example, there is no standard statement being used to certify after market repair parts as being of "like kind and quality". Further, the Department continues to receive numerous consumer complaints about insurer automobile claim settlement practices. We are extremely concerned that a wide range of potentially unfair claims settlement practices are occurring "on the ground" in New Hampshire.

As a result, we will intensify our scrutiny of claims settlement practices focusing our attention on those insurers whose practices generate repeated complaints.

Finally, since the Department believes uniformity is critically important in handling private passenger automobile claims, this Bulletin sets standards that must be followed in this area.

ORDER

WHEREAS, RSA 407-D:3 requires that "No insurer shall require the use of after-market parts in the repair of an automobile unless the after-market part is at least equal in like kind and quality to the original part in terms of fit, quality and performance."; and

WHEREAS, RSA 417:4 XX states that "No insurance company, and no agent or adjuster for such insurance company.....shall require any insured person or entity under that policy to use a particular company or location for the providing of automobile glass replacement or automobile repair services or products insured in whole or in part by that policy."; and

WHEREAS, Ins 1001.04 states that "In processing any claim for any damage to any motor vehicles as defined in RSA 268:1, IX, the insurer shall not require as a condition to the payment of such claims that repairs be made in a particular place or shop or by a particular concern."; and

WHEREAS, RSA 417:4 XV (a) (4) requires insurers to "in good faith effectuate prompt, fair and equitable settlements or compromises of claims"; and

WHEREAS, RSA 417:4 XV (a) (5) prohibits insurers from compelling claimant litigation "by offering substantially less than the amounts ultimately recovered in actions brought by them"; and

WHEREAS, RSA 417:4 XV (a) (8) prohibits insurers from "attempting to settle or compromise a claim for less than the amount which the insured had been led to believe the insured was entitled to by written or printed advertising material accompanying or made part of an application"; and

WHEREAS, RSA 417:4 XV and Ins 1001.02 prohibit acts committed by an insurer which constitute unfair and illegal claim settlement practices, now, therefore, be it

ORDERED that:

1. All licensed insurance writers of private passenger automobile coverage who specify repairs using after-market parts shall state in writing to the owner of the vehicle being repaired the following:

"The after-market part(s) being specified for the repair of your vehicle are at least equal in kind and quality to the original equipment in terms of fit, quality and performance."

This statement shall be printed in a separate paragraph on insurer's repair estimates or authorizations to repair and/or a separate writing and shall be presented in 10 point type or larger.

2. Any licensed insurer not providing the precise statement in 1. above shall be prohibited from requesting or requiring the use of after market parts.

3. No licensed insurance writer of private passenger automobile coverage shall require or specify the use of after-market parts on automobiles which have been placed in service within the immediately preceding two (2) years and which have 30,000 or fewer miles recorded on the odometer.

4. No licensed writer of private passenger automobile insurance shall require or specify the use of after-market parts on leased vehicles if the lease provides that such parts will cause a diminution of the residual value of such vehicle.

5. For purposes of this Order, "specify" includes writing repair estimates on the basis of the cost of after-market parts or otherwise declining to pay for the cost of original equipment manufacturer replacement parts.

6. Coercion and steering shall be considered an unfair claims settlement practice under RSA 417:4 and as defined in Ins 1000 which sets out in detail the Department's interpretation of the terms "coercion" and "steering".

7. All claim settlements shall be conducted in full compliance with the provisions of Ins 1001.02 and RSA 417:4 XV.

8. Insurers failing to comply with this order shall be subject to any and all penalty provisions provided by statute or regulation.

SO ORDERED,

NEW HAMPSHIRE INSURANCE DEPARTMENT

DATED: September 20, 1999

/Paula T. Rogers
Paula T. Rogers, Commissioner